IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 1070 (S/S) of 2006

Sri Gautam Lal Arya,
son of late Sri Sheru Lal,
resident of 12- Raghav Vihar,
Smith Nagar, Prem Nagar,
Dehradun. **…….Petitioner**

V e r s u s

1. State of Uttaranchal through the Secretary, Animal Husbandry, District- Dehradun.
2. Director/ Additional Director, Department of Animal Husbandry, Uttaranchal, Gopeshwar, Chamoli.
3. Deputy Director, Department of Animal Husbandry, Garhwal Mandal, Pauri, Uttaranchal.

…….Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri Shobhit Saharia, learned counsel for the petitioner and learned standing counsel for respondents.

Learned counsel for both the parties are agree to decide the writ petition at its admission stage itself.

By means of this writ petition, the petition has prayed for the following reliefs:-

(a) Issue a writ, order or direction in the nature of Certiorari quashing the order dated 10.07.2006 (Annexure No. 1 to the writ petition) transferring the petitioner from Veterinary Hospital, Perm Nagar Dehradun to Veterinary Hospital, Sahiya, Dehradun.

(b) Issue a writ, order or direction in the nature of Mandamus directing the respondents not to give effect to the order dated 10.07.2006 (Annexure No. 1 to the writ

petition) transferring the petitioner from Veterinary Hospital, Prem Nagar, Dehradun to Veterinary Hospital, Sahiya, Dehradun till the final decision of the writ petition.

(c) *other writ, order or direction, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case may also be passed in favour of the petitioner.*

(d) *award the costs of the writ petition*

Petition, who is working as Veterinary Pharmacist at Veterinary Hospital, Prem Nagar, Dehradun, is aggrieved by the transfer order dated 10.07.2006 passed by Deputy Director, Department of Animal Husbandry, Garhwal Mandal, Pauri by which petitioner has been transferred from Veterinary Hospital, Prem Nagar, District – Dehradun to veterinary Hospital, Sahiya, District – Dehradun.

Petitioner has challenged the transferred order on various grounds. First, Government of India, Ministry of Personnel, Public Grievances & Pension (Department of Personnel and Training) on 15.02.1991 has issued office Memorandum to provide concession in the matter of posting of an employee whose child is mentally retarded, to the place of his choice in view of the fact that facility of medical aid and education of such child is not available everywhere.

Though this office memorandum pertains to employees of Central Government but the difficulties shown in the office memorandum is being faced by the parents of mentally retarded child also applicable to other employees.

Petitioner has submitted that he has represented before the Chief Commissioner for persons with disabilities (Mobile Grievance Cell NIVH, Dehradun in the year 2001 because at the time also petitioner was likely to be transferred and the Chief Commissioner on 07.09.2001 passed an order that as far as possible parents (government employees) having mentally retarded children should not be transferred frequently, till their children obtain age of at least 21 years.

Petitioner has filed certificate issued by Coordinator, Karuna Vihar Centre For Vocational Training, Dehradun, certifying that Mayank Mohan, son of petitioner, had been a student of Karuna Vihar Special School till 15.07.2004 and thereafter, he has joined Karuna Vihar School for Vocational Studies Training and at present the said training is in progress and if the said training is discontinued at this stage that would be highly infavourable to him.

The Place where petitioner has now been transferred is very remote place of the district – Dehradun and it will certainly be very difficult for the petitioner to continue the vocational training programme of his mentally retarded son because it is 65 Kms away from the school where the son of petitioner is not getting vocational training.

Learned counsel for the petitioner has drawn my attention towards Clause 7 Sub Clause 3 of the Government Policy issued by State of Uttaranchal wherein it is provided that the transfer of an employee whose children is mentally retarded should transferred to place where medical facilities are available and that too after obtaining choice of place of posting from the employee.

Raising all his grievances, petitioner's wife has moved application before respondent no. 1, who has made an endorsement on 26.07.2006 on the application of petitioner directing the respondent no. 2 to take action.

Learned counsel for the petitioner has submitted that Additional Director i.e. respondent no. 2 has also issued direction to the Deputy Director i.e. respondent no. 3 to take action in pursuance to the order passed by Chief Commissioner as well as in pursuance to the policy issued by State Government on 27.06.2006.

Considering all these facts, I direct the Deputy Director, Department of Animal Husbandry, Garhwal Mandal, Pauri i.e. respondent no. 3 to take decision on the representation of the petitioner's wife, considering all the facts mentioned above, within a period of four weeks from the date of production of certified copy of this order. Petitioner is also directed to supply the copy of this order to the respondent no. 3 within a period of one week from today. Till the decision is taken on the representation of the petitioner by respondent no. 3 order dated 10.07.2006 shall be kept in abeyance.

With this direction with petitioner is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

August 07, 2006
SKSharma